



DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notice of Intent to Open a Coordinated Remedy Program Proceeding for the Replacement of Certain Takata Air Bag Inflators

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Intent to Open a Coordinated Remedy Program Proceeding for the Replacement of Certain Takata Air Bag Inflators Pursuant to 49 U.S.C. 30120(c)(3) and Other Authority.

SUMMARY: In order to organize and prioritize vehicle manufacturer's recall and remedy programs to address defective Takata frontal air bag inflators, the National Highway Traffic Safety Administration ("NHTSA") is providing notice of NHTSA's intent to open proceedings pursuant to its authority under 49 U.S.C. 30120(c)(3) and other authority. NHTSA is considering implementing these remedy programs for all manufacturers and suppliers involved in the recalls of defective Takata air bag inflators. This notice explains NHTSA's authority to open such a proceeding and describes some of the issues that the agency would consider, and information the agency would request from commenters, as part of such a proceeding.

FOR FURTHER INFORMATION CONTACT: Arija Flowers, Trial Attorney, Office of the Chief Counsel, NCC-111, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington DC, 20590 (telephone: 202-366-8714).

SUPPLEMENTARY INFORMATION: In order to ensure that all vehicles in the United States are equipped with safe air bags as quickly as possible and to reduce the risk of serious injury or death due to an inflator rupture, NHTSA is considering exercising its authority under

the National Traffic and Motor Vehicle Safety Act of 1966, as amended and recodified (the “Safety Act”), 49 U.S.C. 30101, *et seq.*, to organize and prioritize the remedy programs of BMW of North America, LLC (“BMW”), Chrysler Group, LLC (“Chrysler”), Daimler Trucks North America, LLC (“DTNA”), Ford Motor Company (“Ford”), General Motors, LLC (“GM”), American Honda Motor Company (“Honda”), Mazda North American Operations (“Mazda”), Mitsubishi Motors North America, Inc. (“Mitsubishi”), Nissan North America, Inc. (“Nissan”), Subaru of America, Inc. (“Subaru”), and Toyota Motor Engineering and Manufacturing (“Toyota”) (collectively, the “Manufacturers”), and TK Holdings, Inc. (“Takata”) to address Takata frontal air bag inflators. Specifically, NHTSA is issuing this notice pursuant to its authority under the Safety Act to “accelerate” a remedy program, 49 U.S.C. 30120(c)(3) and 49 CFR 573.14, as delegated by the Secretary of Transportation, 49 CFR 1.95, 501.2(a)(1), to inspect and investigate, 49 U.S.C. 30166(b)(1), and to ensure that defective vehicles and equipment are recalled, 49 U.S.C. 30118-30119.

On May 18, 2015, Takata filed four Defect Information Reports (“DIR’s”) pursuant to 49 CFR 573.6. In those DIR’s, Takata determined that a defect exists in certain models of frontal air bag inflators (PSDI, PSDI-4, PSDI-4K, SPI, PSPI and PSPI-L).

The Safety Act requires manufacturers to remedy safety-related defects in motor vehicles. 49 U.S.C. § 30120(a). If the Secretary of Transportation determines that a manufacturer’s remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to “accelerate” the remedy program if the Secretary finds that there is a risk of serious injury or death if the remedy program is not accelerated and that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement

parts, expanding the number of authorized repair facilities, or both. *Id.* § 30120(c)(3). The Secretary has delegated his authorities under the Safety Act to the NHTSA Administrator, 49 C.F.R. 1.95(a), 501.2(a)(1). Each of the Manufacturers has elected a remedy program of repair of the affected vehicles. *See* 49 U.S.C. 30120(a)(1)(A). These remedy programs are individual to each of the Manufacturers, creating a patch-work solution that NHTSA believes may not adequately address the safety risks presented by the defective Takata inflators within a reasonable time. Regardless of root cause, these recalls involve the same safety risk: the risk of the air bag inflator rupturing when the air bag is inflated, which may result in serious injury or death to vehicle occupants without any prior warning.

The number of impacted vehicles and manufacturers in combination with the supply issues related to these air bag recalls adds a previously unprecedented level of complexity to this recall and remedy process. Given the number of manufacturers (11) and the technical complexity of the issues involved, NHTSA intends to open a Section 30120(c)(3) proceeding, and has therefore issued this Notice of Intent to inform the public.

The goal of a Section 30120(c)(3) proceeding is for the agency to consider whether (and if so, how) to organize and prioritize the recall and remedy programs of the Manufacturers, in order to aid the Manufacturers in accomplishing their significant task of replacing all defective Takata air bag inflators.

As part of a Section 30120(c)(3) proceeding, NHTSA plans to consider the views of commenters regarding NHTSA's exercising its authority with respect to recall and remedy programs involving certain defective Takata frontal air bag inflators, including, but not limited whether it should, and on what terms, issue an order to "accelerate" all applicable recall remedy

programs, which could include, but not be limited to, provisions regarding sourcing, production, allocation, delivery, installation, and adequacy of the remedy.

Further, as part of a Section 30120(c)(3) proceeding, NHTSA would specifically request comments on how the Manufacturers would comply with an organization and prioritization of remedy directive, the possible terms of any such order and, in particular, how NHTSA should order the sourcing of the replacement parts for Manufacturers, whether NHTSA should issue the remedy order to some but not all Manufacturers, whether NHTSA should order the Manufacturers to prioritize certain vehicles or certain regions in its allocation of replacement parts and how, and whether NHTSA should order a re-replacement schedule for replacement frontal inflators if Takata cannot provide assurances for the ongoing safety of the inflators.

Upon NHTSA's opening of a Section 30120(c)(3) proceeding, additional information, including how to comment, will be published in a supplemental **Federal Register** Notice.

Authority: 49 U.S.C. 30101, *et seq.*, 30118-30119, 30120(c)(3), 30166(b)(1); 49 CFR 573.6, 573.14; delegations of authority at 49 CFR 1.95(a), 501.2(a)(1).

Issued: May 18, 2015.

Mark R. Rosekind, Ph.D.
Administrator

Billing Code: 4910-59-P

[FR Doc. 2015-12449 Filed: 5/21/2015 08:45 am; Publication Date: 5/22/2015]